

Application Serial No.: 09/611,923
Attorney Docket No.: 00CON137P

REMARKS

This Amendment and Response is in response to the *Non-Final* Office Action of July 12, 2005, where the Examiner has rejected claims 1-26. By the present amendment, claims 1-3, 9-10 and 20-24 have been amended, claims 4-8, 11-19 and 25-26 have been cancelled, and new claims 27-42 have been added. After the present amendment, claims 1-3, 9-10, 20-24 and 27-42 are pending in the present application. Allowance of outstanding claims 1-3, 9-10, 20-24 and 27-42 in view of the following remarks is respectfully requested.

A. Rejection of Claims 1-4, 11-16 and 20 under 35 USC §103(a)

The Examiner has rejected claims 1-4, 11-16 and 20, under 35 USC §103(a), as being unpatentable over Cai, et al. (USPN 5,550,908) ("Cai") in view of Olafsson, et al. (USPN 6,912,276) ("Olafsson").

First, applicant respectfully submits that according to 35 USC § 103(c), Olafsson does not qualify as a prior art patent for the purpose of Examiner's rejection under 35 USC § 103(a). 35 USC § 103(c) reads as follows:

Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. (emphasis added.)

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Applicant respectfully submits that the Olafsson patent and the present application were subject to an obligation of assignment to Conexant Systems, Inc., at the time the invention was made. As shown in the USPTO assignment records, the Olafsson patent was filed on September 10, 1999, assigned by the inventors to Conexant Systems, Inc. on September 17, 1999, and recorded on December 6, 1999, under Reel/Frame Nos. 010450/0441 in the USPTO. Further, the present application was assigned by the inventor to Conexant Systems, Inc., on June 29, 2000, and recorded on July 7, 2000, under Reel/Frame Nos. 010928/0233 in the USPTO.

Furthermore, by the present amendment, applicant has cancelled claims 4 and 11-16. Accordingly, the Examiner's rejection of claims 4 and 11-16 has been rendered moot.

In addition, by the present amendment, applicant has amended claim 1 to recite "A method of spoofing for use by a first modem, wherein said first modem is in a modem communication with a second modem, wherein a first point-to-point protocol (PPP) layer is in a PPP communication with a second PPP layer via said modem communication, and wherein said PPP communication includes a link configuration packet, an echo request packet and an echo reply packet, said method comprising: monitoring PPP data packets, including said link configuration packet, communicated by said second PPP layer to said first PPP layer via said modem communication; obtaining a magic number from said link configuration packet by said first modem; interrupting said PPP communication such that no PPP data packets are communicated between said second PPP layer and said first PPP layer via said modem communication; detecting said echo request packet from said first

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PPP layer, destined for said second PPP layer, by said first modem after said interrupting; creating said echo reply packet by said first modem in response to said detecting said echo request packet; inserting said magic number by said first modem into said echo reply packet; and responding to said echo request packet by said first modem by transmitting said echo reply packet including said magic number to said first PPP layer.” Further, independent claim 20 has been amended to include limitations similar to those of claim 1, as amended.

Applicant respectfully submits that the cited references do not come close to disclosing, teaching or suggesting the limitations of claim 1, as amended. Accordingly, claim 1, as amended, and its dependent claims 2 and 3, and independent claim 20, as amended, should be allowed.

B. Rejection of Claims 5-10, 17-19 and 21-26 under 35 USC §103(a)

The Examiner has rejected claims 5-10, 17-19 and 21-26, under 35 USC §103(a), as being unpatentable over Cai in view of Olafsson, and further in view of Johnson, et al. (USPN 6,765,901) (“Johnson”).

By the present amendment, applicant has cancelled claims 5-8, 17-19 and 25-26. Accordingly, the Examiner’s rejection of claims 5-8, 17-19 and 25-26 has been rendered moot.

Further, applicant respectfully submits that claims 9-10 and 21-24 depend from claims 1 and 20, respectively. Accordingly, claims 9-10 and 21-24 should be allowed at

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least for the same reasons claims 1 and 20, as amended, are patentably distinguishable over the cited references.

C. Rejection of Claims 1, 11 and 16 under Judicially Created Doctrine of Obviousness-Type Double Patenting

The Examiner has rejected claims 1, 11 and 16 under judicially created doctrine of obviousness-type double patenting over claims 13 and 34 of Olafsson (USPN 6,785,371) ("Olafsson '371").

By the present amendment, applicant has cancelled claims 11 and 16. Accordingly, the Examiner's rejection of claims 11-16 has been rendered moot.

Further, by the present amendment, applicant has amended claim 1, as shown above. In view of applicant's amendments to claim 1, applicant respectfully requests that the Examiner's rejection of claim 1, under judicially created doctrine of obviousness-type double patenting over claims 13 and 34 of Olafsson '371, be withdrawn.

D. New Claims 27-42

By the present amendment, applicant has added new independent claims 27 and 35, and their respective dependent claims 28-34 and 36-42. Applicant respectfully submits that new claims 27 and 35 include limitations similar to those of claims 1 and 20, as amended, respectively. Accordingly, it is respectfully submitted that the cited references do not come close to disclosing, teaching or suggesting the limitations of new

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claims 27 and 35, and thus, new independent claims 27 and 35, and their respective dependent claims 28-34 and 36-42, should be allowed.

E. Conclusion

Based on the foregoing reasons, an early Notice of Allowance directed to all claims 1-3, 9-10, 20-24 and 27-42 pending in the present application is respectfully requested.

Respectfully Submitted,
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